



DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

[Docket No. IC22-17-000]

Commission Information Collection Activities (FERC-549); Comment Request;
Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC-549 (NGPA Section 311 Transactions, NGA Blanket Certificate Transactions, and Market-Based Rates for Storage) which will be submitted to the Office of Management and Budget (OMB) for a review of the information collection requirements.

DATES: Comments on the collection of information are due **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send written comments on FERC-549 to OMB through www.reginfo.gov/public/do/PRAMain, Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB control number (1902-0086) in the subject line. Your comments should be sent within 30 days of publication of this notice in the Federal Register.

Please submit copies of your comments (identified by Docket No. IC22-17-000) to the Commission as noted below. Electronic filing through <https://www.ferc.gov> is preferred.

- Electronic Filing: Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.

- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.
 - Mail via U.S. Postal Service Only: Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, N.E., Washington, DC 20426.
 - Hand (including courier) delivery: Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions:

OMB submissions must be formatted and filed in accordance with submission guidelines at www.reginfo.gov/public/do/PRAMain; Using the search function under the “Currently Under Review field,” select Federal Energy Regulatory Commission; click “submit” and select “comment” to the right of the subject collection.

FERC submissions must be formatted and filed in accordance with submission guidelines at: <https://www.ferc.gov>. For user assistance, contact FERC Online Support by e-mail at ferconlinesupport@ferc.gov, or by phone at: (866) 208-3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <https://www.ferc.gov>.

FOR FURTHER INFORMATION: Ellen Brown may be reached by e-mail at DataClearance@FERC.gov and telephone at (202) 502-8663.

SUPPLEMENTARY INFORMATION:

Title: NGPA Section 311 Transactions and NGA Blanket Certificate Transactions

OMB Control No.: 1902-0086

Type of Request: Three-year extension of the FERC-549 information collection requirements with a revision to account for the differences between filings seeking initial approval and those disclosing a change in circumstances.

Abstract: FERC-549 is required to implement portions of the following statutory provisions: (1) Section 311 of the Natural Gas Policy Act (NGPA) (15 U.S.C. 3371); (2) Section 4(f) of the Natural Gas Act (NGA) (15 U.S.C. 717c(f)); and (3) Section 7 of the NGA (15 U.S.C. 717f). The reporting requirements for implementing these provisions are contained in 18 CFR part 284.

Transportation by Interstate Pipelines for Intrastate Pipelines and Local

Distribution Companies

Under section 311(a)(1) of the NGPA and 18 CFR 284.101 and 284.102, any interstate pipeline may transport natural gas without prior Commission approval “on behalf of” an intrastate pipeline or a local distribution company (LDC). The regulation at 18 CFR 284.102(d) provides that the transportation is not “on behalf of” an intrastate pipeline or an LDC unless one of three conditions is met:

- (1) The interstate pipeline or LDC has physical custody of and transports the natural gas at some point;
- (2) The intrastate pipeline or LDC holds title to the natural gas at some point, which may occur prior to, during, or after the time that the gas is being transported by the interstate pipeline, for a purpose related to its status and functions as a local distribution company; or
- (3) The gas is delivered at some point to a customer that either is located in an LDC’s service area or is physically able to receive direct deliveries of gas from an

intrastate pipeline, and the LDC or intrastate pipeline certifies that it is on its behalf that the interstate pipeline is providing transportation service.

The certification requirement in the third condition described at 18 CFR 284.102(d)(3) is included in the burden table (below) as part of the information collection activity labeled “Transportation by Pipelines.” Before commencing service as described in paragraph (d)(3), the interstate pipeline that is providing the transportation must receive certification from the pertinent LDC or intrastate pipeline consisting of a letter from the intrastate pipeline or LDC authorizing the interstate pipeline to ship gas on its behalf, and sufficient information to verify that the service qualifies under 18 CFR 284.102.

For firm service and for release transactions, the regulation at 18 CFR 284.13(b)(1) requires the interstate pipeline to post with respect to each contract, or revision of a contract for service, the following information no later than the first nomination under a transaction:

- (i) The full legal name of the shipper, and identification number, of the shipper receiving service under the contract, and the full legal name, and identification number, of the releasing shipper if a capacity release is involved or an indication that the pipeline is the seller of transportation capacity;
- (ii) The contract number for the shipper receiving service under the contract, and, in addition, for released transactions, the contract number of the releasing shipper's contract;
- (iii) The rate charged under each contract;
- (iv) The maximum rate, and for capacity release transactions not subject to a maximum rate, the maximum rate that would be applicable to a comparable sale of pipeline services;
- (v) The duration of the contract;

- (vi) The receipt and delivery points and the zones or segments covered by the contract, including the location name and code adopted by the pipeline in conformance with 18 CFR 284.13(f) for each point, zone or segment;
- (vii) The contract quantity or the volumetric quantity under a volumetric release;
- (viii) Special terms and conditions applicable to a capacity release transaction, including all aspects in which the contract deviates from the pipeline's tariff, and special details pertaining to a pipeline transportation contract, including whether the contract is a negotiated rate contract, conditions applicable to a discounted transportation contract, and all aspects in which the contract deviates from the pipeline's tariff.
- (ix) Whether there is an affiliate relationship between the pipeline and the shipper or between the releasing and replacement shipper.
- (x) Whether a capacity release is a release to an asset manager as defined in 18 CFR 284.8(h)(3) and the asset manager's obligation to deliver gas to, or purchase gas from, the releasing shipper.
- (xi) Whether a capacity release is a release to a marketer participating in a state-regulated retail access program as defined in 18 CFR 284(h)(4).

For interruptible service, the regulation at 18 CFR 284.13(b)(2) requires the interstate pipeline to post on a daily basis no later than the first nomination for service under an interruptible agreement, the following information:

- (i) The full legal name, and identification number, of the shipper receiving service;
- (ii) The rate charged;
- (iii) The maximum rate;

- (iv) The receipt and delivery points between which the shipper is entitled to transport gas at the rate charged, including the location name and code adopted by the pipeline in conformance with 18 CFR 284.13(f) for each point, zone, or segment;
- (v) The quantity of gas the shipper is entitled to transport;
- (vi) Special details pertaining to the agreement, including conditions applicable to a discounted transportation contract and all aspects in which the agreement deviates from the pipeline's tariff.
- (vii) Whether the shipper is affiliated with the pipeline.

Transportation by Intrastate Pipelines for Interstate Pipelines or LDCs Served by an Interstate Pipeline

Under section 311(a)(2) of the NGPA and 18 CFR 284.122 and 284.123, any intrastate pipeline may, without prior Commission approval, transport natural gas on behalf of any interstate pipeline or any LDC served by an interstate pipeline. No rate charged for such transportation may exceed a fair and equitable rate. The filing requirements described below are included in the burden table (below) as part of the information collection activity labeled “Transportation by Pipelines.”

The regulation at 18 CFR 284.123(b) provides that intrastate gas pipeline companies must file for Commission approval of rates for services performed in the interstate transportation of gas. An intrastate gas pipeline company may elect to use rates contained in one of its then effective transportation rate schedules on file with an appropriate state regulatory agency for intrastate service comparable to the interstate service or file proposed rates and supporting information showing the rates are cost based and are fair and equitable. It is the Commission policy that each pipeline must file at least every five years to ensure its rates are fair and equitable. Depending on the business

process used, either 60 or 150 days after the application is filed, the rate is deemed to be fair and equitable unless the Commission either extends the time for action, institutes a proceeding or issues an order providing for rates it deems to be fair and equitable.

The regulation at 18 CFR 284.123(e) requires that within 30 days of commencement of new service any intrastate pipeline engaging in the transportation of gas in interstate commerce must file a statement that includes the interstate rates and a description of how the pipeline will engage in the transportation services, including operating conditions. If an intrastate gas pipeline company changes its operations or rates it must amend the statement on file with the Commission. Such amendment is to be filed not later than 30 days after commencement of the change in operations or change in rate election.

Initial Approval of Market-Based Rates for Storage

Section 4(f) of the NGA authorizes the Commission to permit natural gas storage service providers to charge market-based rates for storage, subject to conditions and requirements set forth in the statute. The Commission implements this authority under 18 CFR 284.501 through 284.505. An applicant may apply for market-based rates by filing a request for a market-power determination that complies with the following:

(a) The applicant must set forth its specific request and adequately demonstrate that it lacks market power in the market to be served, and must include an executive summary of its statement of position and a statement of material facts in addition to its complete statement of position. The statement of material facts must include citation to the supporting statements, exhibits, affidavits, and prepared testimony.

The regulation at 18 CFR 284.503 requires that an application to charge market-based rate for storage services must include : (1) A description of the geographic markets for storage services in which the applicant seeks to establish that it lacks significant market power; (2) The product market or markets for which the applicant seeks to establish that it lacks significant market power; (3) A description of the applicant's own facilities and services, and those of all parent, subsidiary, or affiliated companies, in the relevant markets; (4) A description of available alternatives in competition with the applicant in the relevant markets and other competition constraining the applicant's rates in those markets; (5) A description of potential competition in the relevant markets; (6) A general system map and maps by geographic markets; (7) The calculation of the market concentration of the relevant markets using the Herfindahl-Hirschman Index; (8) A description of any other factors that bear on the issue of whether the applicant lacks significant market power in the relevant markets; (9) The proposed testimony in support of the application and will serve as the applicant's case-in-chief, if the Commission sets the application for hearing.

Market Based-Rates – Notice of Change in Circumstances

The Commission's regulations at 18 CFR 284.504 (b) provide that a storage service provider granted the authority to charge market-based rates is required to notify the Commission within 10 days of acquiring knowledge of significant change occurring in its market power status. The notification should include a detailed description of the new facilities/services and their relationship to the storage service provider. Significant changes include: (1) The storage provider expanding its storage capacity beyond the amount authorized; (2) The storage provider acquiring transportation facilities or additional storage capacity; (3) An affiliate providing storage or transportation services in

the same market area; and (4) The storage provider or an affiliate acquiring an interest in or is acquired by an interstate pipeline.

Record Retention

The Commission's regulations at 18 CFR 284.288(b) and 284.403(b), respectively, impose a record retention requirement contained in a Code of Conduct applicable to: (1) interstate pipelines that provide unbundled natural gas sales service,¹ and (2) persons who are not interstate pipelines and whose sales of natural gas are authorized by the "automatic" blanket marketing certificate granted by operation of 18 CFR 284.402.² Any entity fitting one of those descriptions must retain, for a period of five years, all data and information upon which it billed the prices it charged for natural gas it sold pursuant to its market based sales certificate or the prices it reported for use in price indices.

FERC uses these records to monitor the jurisdictional transportation activities and unbundled sales activities of interstate natural gas pipelines and blanket marketing certificate holders.

The record retention period of five years is necessary due to the importance of records related to any investigation of possible wrongdoing and related to assuring compliance with the codes of conduct and the integrity of the market. The requirement is necessary to ensure consistency with 18 CFR 1c.1 ("Prohibition of Natural Gas Market Manipulation") and the generally applicable five-year statute of limitations where the

¹ As defined at 18 CFR 284.282(c), unbundled sales service is gas sales service that is sold separately from transportation service.

² The regulation at section 284.402(a) provides that any person who is not an interstate pipeline is granted a blanket certificate of public convenience and necessity, pursuant to section 7 of the NGA, that authorizes the certificate holder to make sales for resale of natural gas at negotiated rates in interstate commerce. Section 2(1) of the NGA (15 U.S.C. 717a(1)) defines a "person" to include an individual or corporation.

Commission seeks civil penalties for violations of the anti-manipulation rules or other rules, regulations, or orders to which the price data may be relevant.

Failure to have this information available would mean the Commission would have difficulty performing its regulatory functions to monitor and evaluate transactions and operations of interstate pipelines and blanket marketing certificate holders. The Code of Conduct Record Retention burden³ associated with the FERC-549 includes both labor⁴ and storage costs. The labor costs are shown in Table 1, below. The storage costs are shown below in Table 2.

Type of Respondents: Jurisdictional interstate and intrastate natural gas pipelines.

Estimate of Annual Burden⁵: The Commission estimates the annual burden and labor costs for the information collection as shown in the following table.

Table 1
FERC-549: Estimated Labor Costs for NGPA Section 311 Transactions,
NGA Blanket Certificate Transaction, and Record Retention

	A Number of Respondents	B Annual Number of Responses per Respondent	C Total Number of Responses (Column A x Column B)	D Average Burden Hrs. & Cost (\$)⁶ Per Response	E Total Annual Burden Hours & Total Annual Cost (⁶) (Column C x Column D)	F Cost per Respondent (⁶) (Column E ÷ Column A)
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³ 18 CFR 284.288(b) and 18 CFR 284.403(b).

⁴ The \$35.83 hourly cost figure comes from the average cost (wages plus benefits) of a file clerk (Occupation Code 43-4071) as posted on the BLS website (http://www.bls.gov/oes/current/naics2_22.htm).

⁵ The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

⁶ For the information collection activities labeled “Transportation by Pipelines,” “MBR – Initial Approval,” and “MBR – Change in Circumstances,” Commission staff estimates that respondents’ hourly labor cost is approximated by the Commission’s average hourly cost (for wages and benefits) for 2022, or \$91.00 per hour.

	A Number of Respondents	B Annual Number of Responses per Respondent	C Total Number of Responses (Column A x Column B)	D Average Burden Hrs. & Cost (\$)⁶ Per Response	E Total Annual Burden Hours & Total Annual Cost (\$) (Column C x Column D)	F Cost per Respondent (\$) (Column E ÷ Column A)
Transportation by Pipelines	43	2	86	50 hrs.; \$4,550	4,300 hrs.; \$391,300	\$9,100
MBR - Initial Approval	1	1	1	350 hrs.; \$31,850	350 hrs.; \$31,850	\$31,850
MBR - Change in Circumstances⁷	5	1	5	75 hrs.; \$6,825	375 hrs.; \$6,825	\$1,365
Record Retention	299	1	299	1 hr.; \$38.71	299 hrs.; \$11,574.29	\$38.71
Totals	348		391		5,324 hrs.; \$441,549	

Storage Cost:⁸ In addition to the labor costs for record retention, non-labor costs of record retention and storage are estimated as follows:

- Paper storage costs (using an estimate of 12.5 cubic feet x \$6.46 per cubic foot): \$80.75 per respondent annually. Total annual paper storage cost to industry (\$80.75 x 299 respondents): \$24,144.25. This estimate assumes that a respondent stores 12.5 cubic feet of paper. We expect that this

For the information collection activity labeled “Record Retention,” Commission staff estimates that respondents’ hourly labor cost is \$38.71 (for wages and benefits), based on \$27.24 (the mean hourly wage for an information and record clerk, Occupation Code 43-4000 for Utilities as posted at http://www.bls.gov/oes/current/naics2_22.htm), plus \$11.47 (the average hourly cost for benefits for private industry, as posted at <https://www.bls.gov/news.release/pdf/ecec.pdf>).

⁷ This new row was added to account for the differences between initial MBR filings and filings pertaining to a change in circumstances.

⁸ Each of the 299 entities is assumed to have both paper and electronic record retention. Internal analysis assumes 50 percent paper storage and 50 percent electronic storage.

estimate should trend downward over time as more companies move away from paper storage and rely more heavily on electronic storage.

- Electronic storage costs: \$3.18 per respondent annually. Total annual electronic storage cost to industry ($\$3.18 \times 299$ respondents): \$950.82.

This calculation estimates storage of approximately 200 MB per year with a cost of \$3.18 per respondent.

Table 2
Storage Costs Associated with Record Retention

	A. Total Number of Responses	B. Cost per Response	C. Total Annual Cost (Column A x Column B) (rounded)
Paper Storage	299	\$80.75	\$24,144
Electronic Storage	299	\$3.18	\$951
Total Storage Burden			\$25,095

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: February 27, 2023.

Kimberly D. Bose,
Secretary.

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